Conduct Management

Module 15

National Guard Technician Personnel Management Course

SECTION A:

DISCIPLINE & ADVERSE ACTION
TPR 752 Dated 27 August 2010

SECTION B:

VOLUNTARY & NON-DISCIPLINARY ACTIONS TPR 715 Dated 13 July 2007

SECTION A:

DISCIPLINE & ADVERSE ACTIONS

Affects:

- the Technician
- co-workers
- supervisor(s)
- the general organization
- the Technician’s family

DISCIPLINE & ADVERSE ACTIONS

Discipline - Typically taken when a conduct-related incident occurs that warrants action by the supervisor; but less serious than adverse action situations.

Adverse Action - Typically taken by the supervisor for more serious conduct-related incidents; resulting in more severe action(s), such as downgrade or removal.

RESPONSIBILITIES

The Technician - whose behavior/ conduct must be appropriate for the workplace.

The Supervisor - who must ensure that the technician's conduct does not interfere with an orderly and productive work environment.

SUPERVISOR'S ROLE

- Ensure workers know expected behavior
- Ensure they know consequences of unacceptable behavior
- Respond to ALL cases; bring to technician's attention immediately
- Remove names/personalities to minimize bias; focus on problem – not person
- Initiates all disciplinary & adverse actions

RESPONSIBILITIES

- Involve HRO
- Fact-gather; ensure technician has representation, if requested
- Ensure action are IAW NGB regulations and local union agreement(s)
- Consider individual’s circumstances
- Document carefully and completely

TYPES OF ACTIONS TO TAKE

Counseling - Private exchange; discuss observations and improvement needed

Warning - Private, business-like exchange; advise of observations and possible disciplinary action if no improvement

NOTE: Neither of the above is considered a disciplinary action

TYPES OF ACTIONS TO TAKE

Oral Admonishment - One-way talk by supervisor; whatever criticism is necessary to correct the conduct/ behavior

Letter of Reprimand - Formal, written description of conduct; placed in OPF; actions may be grievable and/or further offenses could result in Adverse Action

PERFORMANCE MANAGEMENT VERSUS CONDUCT MANAGEMENT

Performance Management

- Involves “can’t”
- Often resolved by training

Conduct Management

- Involves “won’t”
- Most often requires discipline or taking adverse actions

TYPES OF ADVERSE ACTION

- Suspension
- Reduction in grade
- Removal

MORE ABOUT ADVERSE ACTION

- Get HRO involved; read related laws, regulations, and case precedents
- Have a verifiable reason (cause); be able to support charge(s)
- Show how proposed action will…
- *"Promote the efficiency of the service."*
- Determine, with HRO, type action to take; prepare Notice of Proposed Adverse Action

5-STEP ADVERSE ACTION PROCESS

STEP 1.
Notice of Proposed Adverse Action

STEP 2.
Technician's Right to Reply

STEP 3.
Decision Letter

STEP 4.
Administrative Appeal

STEP 5.
Final Decision

ADVERSE ACTIONS PROCESS

Step 1. Supervisor, with HRO clearance prepares Notice of Proposed Adverse Action, to include:

- Action proposed
- Reason(s) for proposed action
- Rationale for penalty selection
- Right to review material

ADVERSE ACTIONS PROCESS

Step 1. Supervisor, with HRO clearanc
prepares Notice of Proposed Adver
Action, to include: ***(continued)***

- Right to reply
- Right to excused absence to prepare reply
- HRO availability for assistance
- Reference to next step (Step 2)

ADVERSE ACTIONS PROCESS

Step 2. Technician has right to reply (no restrictions prescribed)

- Must give due consideration

Step 3. Deciding Official provides Decision Letter, which includes:

- Action decided upon
- Date action will be effected
- Reference to technician's reply

ADVERSE ACTIONS PROCESS

Step 3. Deciding Official provides Decision Letter, which includes: ***(continued)***

- Reason(s) for decision
- HRO availability for assistance
- Technician's appeal rights

ADVERSE ACTIONS PROCESS

Step 4. Processing of the Administrativ
Appeal, which allows the
appellant a choice of:

- Appellate review; or
- Administrative Hearing

ADVERSE ACTIONS PROCESS

Step 5. The Final Decision, where the Adjutant General must address:

- Are the charges accurate/real?
- Will discipline promote the efficiency of the service?
- Is the selected penalty appropriate to the offense?

ADMINISTRATIVE HEARING PROCESS

1. The HRO makes all hearing arrangements.
2. A Pre-hearing may be held on the day before to clarify the process and resolve any problems.
3. The hearing is held to develop all the facts.

OTHER ISSUES TO CONSIDER

- The union may want to represent the appellant. This is an appropriate role.
- You must prove a clear relationship between the offense and the penalty selected.
- The Adjutant General may award attorney fees only if the technician is the prevailing party

OTHER ISSUES TO CONSIDER

(CONTINUED)

- Disciplinary actions must be annotated on the technician's Supervisor Brief or NGB Form 904-1. Counseling, Warnings, and Oral Admonishments should only be penciled in.
- Was there a need to contact the

OTHER ISSUES TO CONSIDER

(CONTINUED)

Under no circumstances initiate an Adverse Action without the assistance of the HRO.

DOCUMENT!

DOCUMENT!

DOCUMENT!

SECTION B:

NON-DISCIPLINARY ACTIONS & VOLUNTARY ACTIONS

- Non-Disciplinary Actions – Management initiated; not for cause

- Voluntary Actions – Technician initiated

NON-DISCIPLINARY ACTIONS

- Loss of military membership/loss of technician status
- Removal of technician from position due to failure to meet position requirement(s)
- Management reassignment
- Enforced leave
- Furlough of 30 days or less
- Transfer of function
- Decrease in the Hours of Duty (PT Technician)

NON-DISCIPLINARY ACTIONS

These type of actions are those that are:

- Driven by failure to meet National Guard conditions of employment

OR

- Necessitated by program changes requiring involuntary staffing changes or reductions in hours

LOSS OF MILITARY MEMBERSHIP

(Established by National Guard Technician Act 1968 and reemphasized by P.L. 104-106, signed in Feb 96)

- A technician who fails to maintain military membership MUST BE promptly separated from technician service
- Separation must occur as close to military separation as possible – following a 30 day notice period

REMOVAL FROM POSITION FOR FAILURE TO MEET POSITION REQUIREMENTS

- Compatible military assignment
- Appropriate military appointment
- Flying Status
- Security Clearance
- Job-required licenses/certifications

MANAGEMENT-DIRECTED REASSIGNMENT

Technicians must be provided reasonable advance notice of the move, and must meet qualifications for the new position.

- Movement from one position to another with same grade and pay
 - Management may direct, without technician concurrence
 - Technician has no right to administrative hearing
- Movement from one position to a lower grade position
 - Management must get technician concurrence
 - Pay retention may be authorized

[NOTE: If the technician does not concur with the change to lower grade, management cannot reassign the technician under TPR 715. Management may only process the action either for -- misconduct IAW TPR 752, or poor performance IAW TPR 430.]

ENFORCED LEAVE

Management must have the technician leave the work site if/when…

The technician is not ready, willing, AND able to perform assigned duties;

OR

The technician's continued presence is highly undesirable or presents a threat

ENFORCED LEAVE *(CONTINUED)*

In emergency situations, the supervisor must…

Remove the technician from the work site and place him/her in appropriate leave status

When emergency is resolved…

Discontinue enforced leave and offer technician choice of approved type leave or LWOP

ENFORCED LEAVE *(CONTINUED)*

- If acceptable resolution – business as usual
- If not – discipline or adverse action should be pursued
- Be familiar with TPR 630 Dated 27 August 2010 - Absence and Leave Program

Furlough of 30 Days or Less

- Need legitimate reasons
- Must honor negotiated agreements
- May request TAG review

Transfer of Function

- TPR (300)351 Nov 93 established procedures
- Also review CBA

Decrease in the Hours of Duty (PT Technician)

- Covered in TPR 300
- In writing
- Cleared by HRO
- May request TAG review

VOLUNTARY ACTIONS

- Resignation
- Voluntary Change to Lower Grade
- Optional Retirement
- Abandonment of Position

RESIGNATIONS

- Technician makes decisions relative to notice, effective date and time
- Not required to be written
- Supervisor completes SF 52: technician signs back or resignation is attached
- Technician can withdraw resignation prior to effective date/time
- Management must honor withdrawal, unless position is to be abolished or is obligated

VOLUNTARY CHANGE TO LOWER GRADE

- A voluntary, written request to be placed in a position at a lower grade without right to retained grade or pay
- Cannot be in response to competitive advertisement
- Must meet qualifications for other position
- Withdrawal requirements and conditions are the same as for resignations

OPTIONAL RETIREMENT

- Encompasses same conditions and requirements as for resignations
- One exception is that the request for optional retirement and/or its withdrawal must be in writing

ABANDONMENT OF POSITION

- Involves failure of a technician to report for work for a reasonable period of time, with the supervisor unable to ascertain the technician's intention of returning.
- Reasonable period of time has been defined by TPR 715 as "usually 10 calendar days" but that is not firm

Question

